



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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Ref: 8EPR-EP

July 26, 2005

Mr. Art Compton, Director
Planning, Prevention and Assistance Division
Department of Environmental Quality
P.O. Box 200901
Helena, MT 59620-0901

Re: **TMDL Approvals**
Ninemile TPA

Dear Mr. Compton:

We have completed our review of the total maximum daily loads (TMDLs) as submitted by your office for the Ninemile TMDL Planning Area (TPA). The TMDLs are included in the document entitled Water Quality Restoration Plan and Total Maximum Daily Loads for the Ninemile Planning Area (Montana Department of Environmental Quality) transmitted to us for review and approval in correspondence dated January 29, 2005 and signed by you. In accordance with the Clean Water Act (33 U.S.C. 1251 *et. seq.*), we approve all aspects of the TMDLs as developed for the Ninemile TPA. Enclosure 1 to this letter provides a summary of the elements of the TMDLs and Enclosure 2 provides details of our review of the TMDLs.

Based on our review, we feel the separate TMDL elements listed in Enclosure 2 adequately address the pollutants of concern, taking into consideration seasonal variation and a margin of safety. In approving these TMDLs, EPA affirms that the TMDLs have been established at a level necessary to attain and maintain the applicable water quality standards and has the necessary components of an approvable TMDL.

EPA has been in contact with the United States Fish and Wildlife Service (FWS) regarding whether and, if so, how the EPA's approval of the Ninemile TPA TMDLs may affect the continued existence of any endangered or threatened species listed under the Endangered Species Act (ESA) or the designated critical habitat of any such species. EPA has not determined that today's approval may have such an affect. Therefore, consistent with the terms of a consent decree in the lawsuit of Friends of the Wild Swan, et al., v. U.S. Environmental Protection Agency, et al., Civil Action No. CV99-87-M-LBE, United States District Court for the District of Montana, Missoula Division, EPA has decided to approve these TMDLs contingent upon the outcome of consultation with the FWS.



Thank you for your submittal. If you have any questions concerning this approval, feel free to contact Ron Steg of my staff at (406) 457-5024.

Sincerely,

Original signed by Terry Anderson for

Max H. Dodson
Assistant Regional Administrator
Ecosystems Protection and Remediation

Enclosures

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